

SUBCHAPTER D—DECLASSIFICATION

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AUTHORITY: 44 U.S.C. 2104(a); Executive
Order 12356 of April 2, 1982 (3 CFR 1982 Comp.,
p. 166).

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otherwise noted. Redesignated at 50 FR 15723,
Apr. 19, 1985.

§ 1260.1 Scope of part.

(a) Declassification of and public ac-
cess to national security information
and material (hereafter referred to as
“classified information” or collectively
termed “information”) is governed by
Executive Order 12356 of April 2, 1982
(47 FR 14874, 3 CFR 1982 Comp, p. 166)
and by the Information Security Over-
sight Office Directive Number 1 of June
22, 1982 (47 FR 27836, June 25, 1982).

(b) Documents declassified in accord-
ance with this regulation may be with-
held from release under the provisions
of 5 U.S.C. 552(b) for accessioned agen-
cy records; 36 CFR 1254.36 for donated
historical materials; 44 U.S.C. 2201 et
seq. and 36 CFR part 1270 for Presi-
dential records; and 44 U.S.C. 2111 note
and 36 CFR part 1275 for Nixon Presi-
dential materials. Procedures for pub-
lic requests for mandatory review of
classified information under Executive
Order 12356 are found in § 1254.46 of this
chapter.

[57 FR 21744, May 22, 1992]

§ 1260.2 Declassification responsibility.

(a) *Classified U.S. Government origi-
nated information less than 30 years old.*
Declassification of U.S. Government
originated information less than 30
years old is the responsibility of the
agency that originated the informa-
tion.

(b) *Foreign government information provided to the United States in confidence and less than 30 years old.* Declassification of foreign government information (provided to the U.S. in confidence) less than 30 years old, is the responsibility of the agency that initially received or classified the foreign government information in consultation with concerned agencies. NARA may make a declassification determination on foreign government information less than 30 years old only when the responsible agency has specifically authorized this action.

(c) *Classified U.S. Government originated information and foreign government information provided in confidence more than 30 years old.* Systematic reviews of U.S. Government originated information and foreign government information (provided to the U.S. in confidence) more than 30 years old (except for intelligence file series described in paragraph (d) of this section) accessioned into the National Archives or donated to the Government are the responsibility of NARA. NARA shall conduct systematic declassification reviews in accordance with guidelines provided by the head of the originating agency or, with respect to foreign government information, in accordance with guidelines provided by the head of the agency having declassification jurisdiction over the information. If no guidelines for review of foreign government information have been provided by the agency heads, the Director of the Information Security Oversight Office, after coordinating with the agencies having declassification authority over the information, shall issue general guidelines for systematic declassification reviews. With respect to the systematic reviews of Presidential papers or records, guidelines shall be developed by the Archivist of the United States and approved by the National Security Council.

(d) *Classified U.S. Government originated information concerning intelligence and cryptology.* Systematic reviews of file series of accessioned records and presidential papers or records concerning intelligence activities (including special activities), or intelligence sources or methods, and cryptology created after 1945, shall be conducted

as the records become 50 years old. NARA shall conduct systematic declassification reviews in accordance with guidelines provided by the Director of the Central Intelligence Agency concerning information on intelligence activities and intelligence sources and methods, and by the Secretary of Defense concerning cryptologic information.

(e) *White House information.* Declassification of information from a previous administration which was originated by the President; by the White House staff; by committees, commission, or boards appointed by the President; or by others specifically providing advice and counsel to a President or acting on behalf of the President (hereinafter referred to as "White House information") is the responsibility of the Archivist of the United States. Declassification determinations will be made after consultation with agencies having primary subject matter interest and will be consistent with the provisions of applicable laws or lawful agreements.

(f) *Information originated by a defunct agency.* NARA is responsible for declassification of all information in the custody of NARA originated by an agency that has ceased to exist and whose functions have not been transferred to another agency and of all foreign government information originally received or classified by such an agency. NARA shall make declassification determinations after consultation with all agencies having primary subject matter interest.

[49 FR 1349, Jan. 11, 1984. Redesignated at 50 FR 15723, Apr. 19, 1985 and 51 FR 22076, June 18, 1986. Further redesignated at 59 FR 29194, June 6, 1994]

§ 1260.4 Agency liaison.

To ensure that NARA will be able to respond promptly to mandatory review requests and appeals from denials, the head of each agency shall be requested to provide NARA with the current name, title, and address of the agency's designated mandatory review and appellate authority.

[49 FR 1344, Jan. 11, 1984. Redesignated and amended at 50 FR 15723, 15727, Apr. 19, 1985]

**Subpart A—Mandatory Review of
Classified U.S. Government
Originated Information and
Foreign Government Informa-
tion Provided to the United
States in Confidence**

§ 1260.10 NARA action.

(a) *Information less than 30 years old.* NARA shall promptly acknowledge receipt of a request for mandatory review of classified U.S. Government originated information, and within 30 calendar days of receipt of the request, shall forward the request, with copies of the documents containing the requested information, to the agency that originated the information or to the agency that the Archivist determines has primary subject matter interest. With respect to foreign government information, the request and copies of the documents shall be forwarded to the agency which initially received or classified the information. If unable to identify that agency, NARA shall forward the request to the agency which has primary subject matter interest. NARA shall inform the requester that referrals have been made to the appropriate Government agency.

(b) *Information more than 30 years old.* NARA shall acknowledge receipt of a request for mandatory review of classified U.S. Government originated information or foreign government information which NARA may review for declassification using systematic review guidelines, and within 60 days of receipt of the request shall act upon it and notify the requester of the action taken. If additional time is necessary to make a declassification determination, NARA shall notify the requester of the time needed to process the request. Except in unusual circumstances, NARA will make a final determination within 1 year of the receipt of the request. Information which NARA may not declassify using the systematic review guidelines will be promptly forwarded, with copies of the documents containing the requested information, to the responsible agency. NARA shall inform the requester that referrals have been made to the appropriate Government agency.

[51 FR 22076, June 18, 1986]

§ 1260.12 Agency action.

Upon receipt of a request for mandatory review of classified U.S. Government originated information or foreign government information forwarded by NARA, the originating or responsible agency shall:

(a) Either make a prompt declassification determination and notify NARA accordingly, or inform NARA of the additional time needed to process the request. NARA will inform the requester of the agency action. Except in unusual circumstances, agencies shall make a final determination within one year.

(b) Notify NARA of any other agency to which it forwarded the request in those cases requiring the declassification determination of another agency.

(c) Return to NARA a complete copy of each declassified document with the agency determination. NARA will forward the reproduction to the requester. When a request cannot be declassified in its entirety, the agency must also furnish NARA, for transmission to the requester, the following:

(1) A brief statement of the reasons the requested information cannot be declassified; and

(2) A statement of the requester's right to appeal within 60 calendar days of receipt of the denial; the procedures for taking such action; and the name, title, and address of the appeal authority.

(d) The agency appellate authority shall make a determination within 30 working days following receipt of an appeal. If additional time is required to make a determination, the agency appellate authority shall notify NARA of the additional time needed and the reason for the extension. The agency appellate authority shall notify NARA in writing of the final determination and of the reasons for any denial. NARA will provide the researcher a copy of any notifications.

(e) Furnish to NARA a complete copy of each document to be released only in part, clearly marked to indicate the portions which remain classified.

[49 FR 1344, Jan. 11, 1984. Redesignated at 50 FR 15723, Apr. 19, 1985, and amended at 51 FR 22077, June 18, 1986; 57 FR 21744, May 22, 1992]

Subpart B [Reserved]**Subpart C—Mandatory Review of Classified Information Originated by a Defunct Agency or Received by a Defunct Agency From a Foreign Government****§ 1260.30 NARA action.**

NARA is responsible for declassification of all information in the custody of NARA originated by an agency which has ceased to exist and whose functions have not been transferred to another agency and of all foreign government information originally received or classified by such an agency. NARA will promptly acknowledge receipt of requests for such information, review the information using applicable systematic review guidelines, and, when necessary, consult with any agency having primary subject matter interest. NARA shall either make a prompt declassification determination and notify the requester accordingly, or inform the requester of the additional time needed to process the request. Except in unusual circumstances NARA shall make a final determination within one year. If the request is denied in whole or in part, the Assistant Archivist for the National Archives or the Assistant Archivist for Presidential Libraries will furnish the requester a brief statement of the reasons for denial and a notice of the right to appeal the determination within 60 calendar days to the Deputy Archivist of the United States (mailing address: National Archives (ND), Washington, DC 20408). Upon receipt of an appeal the Deputy Archivist shall, within 30 working days:

- (a) Review the previous decision made to deny the information and, as necessary;
- (b) Consult with the appellate authorities in any agency having primary subject matter interest in the information previously denied; and
- (c) Notify the requester of the determination and make available to the requester any additional information that has been declassified as a result of the appeal.

§ 1260.32 Agency action.

Upon receipt of a request forwarded by NARA for consultation regarding the declassification of information originated by a defunct agency or of foreign government information originally received or classified by a defunct agency, the agency with primary subject matter interest shall:

- (a) Advise the Archivist whether the information should be declassified in whole or in part or should continue to be exempt from declassification; and
- (b) Return the request to NARA along with a brief statement of the reasons any requested information should not be declassified.

Subpart D—Mandatory Review of Classified White House Originated Information and Foreign Government Information Received or Classified in the White House Less Than 30 Years Old**§ 1260.40 Information subject to mandatory review.**

Information originated by a President, the White House staff, by committees, commissions, or boards appointed by a President, or others specifically providing advice and counsel to a President or acting on behalf of a President (hereafter cited as White House originated information) is subject to mandatory review consistent with the provisions of applicable laws or lawful agreements that pertain to the respective Presidential papers or records. Unless precluded by such laws or agreements, White House originated information is subject to mandatory review 10 years after the close of the administration which created the materials or when the materials have been archivally processed, whichever occurs first.

[49 FR 1344, Jan. 11, 1984. Redesignated and amended at 50 FR 15723, 15728, Apr. 19, 1985]

§ 1260.42 NARA action.

- (a) NARA shall promptly acknowledge receipt of a request for mandatory review of such classified White House originated information and foreign

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government information received or classified in the White House.

(b) NARA will review the requested information, determine which agencies have primary subject matter interest, forward to those agencies copies of material containing the requested information, and request their recommendations regarding declassification.

(c) NARA will review the recommendations returned by the agencies and make its declassification determination within one year of receipt of the request, except in unusual circumstances.

(d) When the request cannot be declassified in its entirety, NARA will furnish the requester:

(1) A brief statement of the reasons the requested information cannot be declassified;

(2) Access to those portions of documents releasable only in part that constitute a coherent segment; and

(3) A notice of the right to appeal the determination within 60 calendar days to the Deputy Archivist of the United States (mailing address: National Archives (ND), Washington, DC 20408).

§ 1260.44 NARA appellate process.

Upon receipt of an appeal, the Deputy Archivist shall within 30 working days:

(a) Review the decision made to deny the information;

(b) Consult with the appellate authorities in agencies having primary subject matter interest in the information previously denied;

(c) Notify the requester of the determination and make available to the requester any additional information which has been declassified as a result of the appeal; and

(d) Notify the requester of the right to appeal denials of access to the Director, Information Security Oversight Office (mailing address: General Services Administration (Z), Washington, DC 20405).

§ 1260.46 Agency action.

Upon receipt of a request forwarded by NARA for consultation regarding declassification of White House originated information and foreign government information received by or classified in the White House, the agency

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with primary subject matter interest shall:

(a) Advise the Archivist whether the information should be declassified in whole or in part or should continue to be exempt from declassification; and

(b) Provide a brief statement of the reasons any requested information should not be declassified and return a complete copy of the reproductions to NARA; and

(c) Return all reproductions referred for consultation including a complete copy of each document which should be released only in part, clearly marked to indicate the portions which remain classified.

[49 FR 1344, Jan. 11, 1984, as amended at 57 FR 21744, May 22, 1992]

Subpart E—Mandatory Review of Classified White House Information More Than 30 Years Old

§ 1260.50 Mandatory review of classified White House originated information and foreign government information received by or classified in the White House more than 30 years old.

(a) NARA shall promptly acknowledge the receipt of a request for mandatory review of classified White House originated information and foreign government information received by or classified in the White House more than 30 years old, and shall act upon that request within 60 calendar days. If additional time is necessary to make a declassification determination, NARA shall notify the requester of the time needed to process the request. NARA will make a final determination within 1 year of the receipt of the request, except in unusual circumstances.

(b) NARA shall review the information using applicable systematic review guidelines and will make available to the requester information declassified using those guidelines.

(c) Information which cannot be declassified by NARA using systematic review guidelines will be promptly forwarded to the agencies with primary subject matter interest and further processed in accordance with § 1260.42(b) through (d) and §§ 1260.44 through 1260.46.

Subpart F—Other Mandatory Review

§ 1260.60 Mandatory review of classified White House information in the custody of other agencies.

Agencies having custody of classified White House information of a previous administration shall forward requests for mandatory review of such information to the Office of the National Archives (mailing address: National Archives (NND), Washington, DC 20408) together with copies of documents containing the requested information and the agency's recommendations regarding declassification. NARA will make a declassification determination on such requests after consulting with any other agency with primary subject matter interest and will reply to the requester. If the request is denied in whole or in part, the requester may appeal within 60 calendar days of receipt of the denial to the Deputy Archivist of the United States (mailing address: National Archives (ND), Washington, DC 20408). Appeals are processed in accordance to the procedures listed in § 1260.44.

Subpart G—Requests for Reclassification of Information

§ 1260.70 Information originated by or under the declassification jurisdiction of Federal agencies.

An agency may request NARA to temporarily close, re-review, and possibly reclassify records and donated historical materials originated by the agency which were declassified in accordance with E.O. 12356 or predecessor Orders. The agency shall submit the request in writing to the Assistant Archivist for the National Archives (NN) or to the Assistant Archivist for Presidential Libraries (NL) (mailing address: National Archives (NL), Washington, DC 20408). If the urgency of the matter precludes a written request, an authorized agency official may make a

preliminary request by telephone. A written request shall follow the oral request within 5 workdays. In the request the authorized agency official shall:

- (a) Identify the records or donated historical materials involved as specifically as possible;
- (b) Explain the reason the agency believes a re-review and possible reclassification may be necessary in the interest of national security; and
- (c) Provide any information the agency may have concerning any previous public disclosure of the information in the records or donated historical materials.

§ 1260.72 Information originated in the White House and under the declassification jurisdiction of the Archivist.

Requests from agencies to re-review and possibly reclassify information originated by a President; the White House staff; committees commissions, or boards appointed by the President; or others specifically providing advice and counsel to a President or acting on behalf of a President and which has been declassified and disclosed shall be submitted in writing to the Archivist of the United States. In the request the authorized agency official shall:

- (a) Specifically identify the record or donated historical material;
- (b) Explain the reason the agency believes a re-review and possible reclassification may be necessary in the interest of national security; and
- (c) Provide any information the agency may have concerning the public disclosure of the information in the records or donated historical material.

§ 1260.74 Appeals.

NARA may appeal to the Director, Information Security Oversight Office, any re-review or reclassification request from an agency when, in the Archivist's opinion, the facts of previous disclosure suggest that such action is unwarranted or unjustified.